

Appl. No. 10/045,346
Amdt. Dated 12/03/2004
Reply to Office Action of 10/04/2004

APP 1459

REMARKS

As pointed out during that interview applicants submit that the present Office Action does not advance the prosecution of this application, completely ignores applicants' prior responses, completely misstates the disclosures of the primary references relied upon, and, with regard to a crucial issue in this case, is contradictory. Further, as with past Office Actions, applicants' prior arguments have been ignored on the basis that they "are moot in view of the new ground(s) of rejection". However, a review of the prior Office Actions and specifically of the immediately prior Office Action will show that the present Office Action is almost verbatim identical with that prior Action, except for a few sentences, including those starting at the bottom of page 3, introducing a new secondary reference Schellinger et al patent 6,052,592 (hereinafter Schellinger) to be applied in addition to the primary reference Wenk et al patent 6,253,088 (hereinafter Wenk).

While the Examiner has in this Office Action repeated that "Wenk teaches a system for enabling a telephone subscriber to switch an on going telephone call between wireline services provided through a central office and cellular services provided by a mobile switching center" (for example, at page 2 of the Office Action regarding Claim 1), applicants are proceeding on the basis that such is not the Examiner's actual position. Specifically, in complete contradiction of these statements the Examiner has also several times stated in this Office Action, to quote the Examiner's words in discussing claim 1, that "Wenk fails to teach a system for enabling a telephone subscriber to switch an on going telephone call between wireline services provided through a central office in the public switched network and cellular services provided by a mobile switching center in a cellular network after the telephone call has been initially routed to the telephone subscriber." It is fundamental to patent prosecution that applicants are entitled to know which is the position of the Examiner. Accordingly, applicants request a clear statement in the record of this application as to whether it is the Examiner's position that Wenk does teach or does not teach the switching of on-going telephone calls.

Applicants clearly pointed out in the June 8, 2004, Amendment why Wenk does not teach such switching. What Wenk teaches is changing the routing for subsequent calls, not switching on-going calls. As set forth by Wenk at column 4, line 46-56, quoted and discussed in detail in the prior Amendment, Wenk teaches an arrangement whereby the mobile wireless network routes all cellular calls intended for the subscriber's wireline telephone to a different phone number.

After acknowledging that Wenk does not teach switching of an ongoing call after it has been routed to the telephone subscriber, the Examiner now relies on Schellinger for this function, citing column 6, line 60 to column 7 line 5. However, because as clearly stated there Schellinger, like Wenk, is concerned with routing of subsequent calls, applicants are repeating below the full text of this paragraph relied upon by the Examiner:

An important feature of a dual use radiotelephone system is to route calls through the "best" system, i.e. cordless, microcellular or cellular. Best can mean least expensive or clearest transmission or can be determined by some other variable. Which is "best" can

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change during a phone call or as the PCC 101 moves in and out of range of various systems. To accomplish this it is necessary for the ACRE 117 to be able to route calls to the cordless base station 115. To do this the ACRE 117 must know the telephone number of the cordless base station 115. One method to accomplish this is to use caller identification provided by the TELCO 111. Caller identification is designed to provide a telephone number and/or subscriber name.

That this does not apply to switching an on-going call is also clearly stated in the Schellinger Abstract, "The ACRE 117 then uses the telephone number for routing subsequent telephone calls to the cordless base station 115." Note also the language of Schellinger claim 2, which is a method of updating a stored landline telephone number "in preparation for future call routing".

In sum, the teaching of Schellinger on this point is the same as the teaching of Wenk, namely routing of subsequent calls, not switching of on-going calls. However, since applicants do not know whether the Examiner believes that routing of subsequent calls is the same as switching of on-going calls, because of her contradictory assertions as discussed above, applicants are unsure whether the Examiner believes that the Schellinger routing of subsequent calls is the same as switching of on-going calls.

In rejecting claims 22 and 23 the Examiner has again relied upon Wenk for a look-up table that identifies the correspondence between a telephone subscriber's wireline telephone number, a cellular telephone number, and a third number for calls to the subscriber telephone number that can be transferred during the on-going telephone call to the subscriber's fixed telephone, citing Wenk column 4, lines 62 to 65, which reads, in toto:

In a preferred implementation of the present invention, this re-routing information will specify that calls intended for the subscriber terminal 10 be routed to the telephone number assigned to the personal base station.

Nowhere in this sentence or elsewhere in Wenk is there any discussion of these numbers as recited in these claims; specifically the numbers correspond to N_f , N_c , and N_{fc} , as discussed, inter alia, at page 19, line 5 of applicants' specification. Even if some third number were to be found somewhere in Wenk, it would not be a number "for calls to said line subscriber's cellular telephone that can be transferred during the on-going telephone call to said one subscriber's fixed telephone." Further, applicants request the Examiner's statement as to whether this rejection is or is not based on the view that Wenk teaches the transfer of a call during the on-going telephone call, as opposed to changing the routing for subsequent incoming calls. Finally, applicants wish to point out that in rejecting claims 2 and 3, the Examiner has ignored that these claims are dependent on claim 22.

In repeating prior rejections of the claims on Wenk and Brachman et al patent 6,374,102, the Examiner has ignored applicants' explanations and arguments in the prior amendments. Merely repeating, in the same words, the prior rejections, which applicants believe they have established to be erroneous, does not indicate to applicant why their arguments and explanations have not been persuasive. Applicants again request, if any of these rejections are to be continued,

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that their prior remarks not be just dismissed as "moot in view of the new ground(s) of rejection", particularly since the present Office Action does not, in fact, present new ground of rejection but merely substitutes one reference for another where both references have essentially the same disclosure and teaching relative to applicants' invention.

Because neither Wenk nor Schellinger has any teaching or suggestion of applicants' invention for the switching of on-going calls, as set forth in claims 1-3, 5-8, 10-14, 16-20, 22, and 23, reconsideration and allowance of those claims and passage of this application to issue are requested.

Respectfully submitted,

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